

§ 222.38

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it makes tuition arrangements with other educational entities.

(3) Attendance data are not counted for any child—

(i) Who is not physically present at school for the daily minimum time period required by the State, unless the child is—

(A) Participating via telecommunication or correspondence course programs that meet State standards; or

(B) Being served by a State-approved homebound instruction program for the daily minimum time period appropriate for the child; or

(ii) Attending the applicant's schools under a tuition arrangement with another LEA.

(c) If an LEA is in a State that does not collect ADA data for purposes of distributing State aid for education, the LEA or SEA shall submit data necessary for the Secretary to calculate the ADA of the LEA's federally connected children as follows:

(1) If an LEA is in a State that formerly collected ADA data for purposes of distributing State aid for education, the SEA may submit the total ADA and total membership data for the State for each of the last three fiscal years that ADA data were collected. The Secretary uses these data to calculate the ADA of the LEA's federally connected children by—

(i) Dividing the total ADA data by the total membership data for each of the three fiscal years and averaging the results; and

(ii) Multiplying the average determined in paragraph (c)(1)(i) of this section by the LEA's total membership of federally connected children as described in paragraph (b)(1)(ii) of this section.

(2) An LEA may submit attendance data based on sampling conducted during the previous fiscal year. The sampling must include attendance data for all children for at least 30 school days. The data must be collected during at least three periods evenly distributed throughout the school year. Each collection period must consist of at least five consecutive school days. The Secretary uses these data to calculate the ADA of the LEA's federally connected children by—

(i) Determining the ADA of all children in the sample;

(ii) Dividing the figure obtained in paragraph (c)(2)(i) of this section by the LEA's total membership for the previous fiscal year; and

(iii) Multiplying the figure determined in paragraph (c)(2)(ii) of this section by the LEA's total membership of federally connected children for the current fiscal year, as described in paragraph (b)(1)(ii) of this section.

(3) If an LEA is in a State that distributes State aid for education based on data similar to attendance data, the SEA may request that the Secretary use those data to calculate the ADA of the LEA's federally connected children. If the Secretary determines that those data are, in effect, equivalent to attendance data, the Secretary allows use of the requested data and determines the method by which the ADA of the LEA's federally connected children will be calculated.

(Approved by the Office of Management and Budget under control number 1810-0036)

(Authority: 20 U.S.C. 7703, 7706, 7713)

§ 222.38 What is the maximum basic support payment that a local educational agency may receive under section 8003(b)?

The maximum basic support payment that an LEA may receive under section 8003(b) for any fiscal year is the sum of its total weighted student units under section 8003(a)(2) for the federally connected children eligible to be counted as the basis for payment, multiplied by the greater of one of the following:

(a) One-half of the State average per pupil expenditure for the third fiscal year preceding the fiscal year for which the LEA seeks assistance.

(b) One-half of the national average per pupil expenditure for the third fiscal year preceding the fiscal year for which the LEA seeks assistance.

(c) The comparable local contribution rate (LCR) determined in accordance with §§ 222.39–222.41.

(d) The State average per pupil expenditure multiplied by the local contribution percentage as defined in section 8013(8) of the Act.

(Authority: 20 U.S.C. 7703 (a), (b) and (c))